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Lehigh Coal and Navigation Co.

AGREEMENT

BETWEEN THE

LEHIGH COAL AND NAVIGATION CO.

AND THE

CENTRAL RAILROAD COMPANY

OF NEW JERSEY.

DATED JUNE 28, 1887.

EVENING POST JOB PRINT.

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Lehigh Coal and Navigation Co.
Agreement between the Lehigh
Coal and Navigation Co. and the
Central Railroad Com-
pany of New
Jersey dated
June 29, 1887



THIS INDENTURE, made the twenty-eight day of June, A. D. 1887, between THE LEHIGH COAL AND NAVIGATION COMPANY of the first part, and THE CENTRAL RAILROAD COMPANY OF NEW JERSEY, of the second part.

WHEREAS, By deed bearing date March 31, 1871, a copy of which is hereto annexed marked "Exhibit A," a contract was made between the parties to this indenture, among other things, for the lease of the Lehigh and Susquehanna Railroad and branches to the parties of the second part and for the working of the said railroad by the party of the second part in connection with its railroad in the State of New Jersey; and

WHEREAS, The party of the second part in the year 1883, desiring to transfer that contract to The Philadelphia and Reading Railroad Company, a deed bearing date May 29, 1883, a copy of which is hereto annexed marked "Exhibit B," was executed between the parties to this indenture and The Philadelphia and Reading Railroad Company, by which deed the contract and lease then subsisting under the deed of March 31, 1871, was converted into a contract and lease defined by the provisions of the deed of March 31, 1871 as the same were modified by the deed of May 29, 1883, and thereupon by another deed of the same date the contract and lease were transferred by The Central Railroad Company of New Jersey to The Philadelphia and Reading Railroad Company; and

WHEREAS, On the first day of January, 1887, the parties of the second part under and by virtue of proceedings in the Circuit Court of the United States took possession of the Lehigh and Susquehanna Railroad and branches, and assumed the control and management of the said railroad and of the property which prior to that time had been held by The Philadelphia and Reading Railroad Company under the contract of March 31, 1871, as modified by that of May 29, 1883; and

WHEREAS, Proceedings have been commenced in the Circuit Court of the United States for the Eastern District of Pennsylvania, to declare that the right of the party of the second part to the said contracts and to the lease and control of the Lehigh and Susquehanna Railroad and branches, has ceased and determined; and alternatively to ascertain and declare the terms of the lease and contract under which the said railroad is and shall be held and managed; and

WHEREAS, It is deemed advantageous to both the parties to this indenture that the Lehigh and Susquehanna Railroad and branches should be controlled and worked by The Central Railroad Company of New Jersey, in connection with its railroad from Phillipsburg to tidewater, if the terms and conditions of the contract under which the same is to be done are satisfactory to both parties, and if they can agree on the same;

It is therefore mutually covenanted and agreed, that on and after January 1, 1887, the contract, grant or agreement by which The Central Railroad Company of New Jersey holds, or claims or can hold or claim any right to the Lehigh and Susque-

hanna Railroad, or to the control or management of the same, or to any property described in or to any rights created or granted by the deed of March 31, 1871, or by the deed of May 29, 1883, is set forth and contained in and is defined by the two written instruments above mentioned; and that the terms, conditions, covenants and agreements of every kind set forth or contained in the deed of May 29, 1883, wherever the same differ from the terms, conditions, covenants and agreements set forth and contained in the deed of March 31, 1871, shall be taken as the terms, conditions, covenants and agreements of the contract and lease between the parties to this indenture subsisting on and after January 1, 1887. And all covenants or agreements which by the deed of May 29, 1883, were made on the part of The Philadelphia and Reading Railroad Company, are to be deemed to have been made by and to be performable by The Central Railroad Company of New Jersey, and all conditions, duties or obligations assumed by The Philadelphia and Reading Railroad Company or imposed on their estate or property, and all rights accruing to that company by the deed of May 29, 1883, are to be deemed to be assumed by and to accrue to The Central Railroad Company of New Jersey, and to be imposed on their estate and right in the premises, contract and property derived from The Lehigh Coal and Navigation Company; and all rights conferred on The Lehigh Coal and Navigation Company, and all duties and obligations accruing to them, and all conditions and obligations imposed on them, are to be deemed and taken to be as they are defined in the deed of May 29, 1883, when the terms of that instrument differ from those of the deed of March 31, 1871, excepting only that such of the provisions of the third covenant of the deed of May 29, 1883, as relate to the development of the Lehigh and Wilkesbarre Coal Company's lands, and to the mode of com-

compensation for a deficiency in the stipulated production of those lands, and to the causing of the production of the said lands to pass to or toward its market over the lines of the Lehigh and Susquehanna Railroad and branches, shall be so modified as to read as follows:

“ will cause the development of the anthracite
 “ lands that may be owned, leased or controlled
 “ by the Lehigh and Wilkesbarre Coal Company
 “ and The Central Railroad Company of New
 “ Jersey to proceed *pari passu* with the general
 “ development of the anthracite region of Penn-
 “ sylvania, and in such manner that the said
 “ lands shall produce at least six per cent. of
 “ the total production of the anthracite region
 “ in each year till the year ending December
 “ 31, 1896, and thereafter shall produce in each
 “ year at least five and one-half per cent. of the
 “ total production of the anthracite region so long
 “ as it shall be possible for them to produce at that
 “ rate.

“ If The Central Railroad Company of New
 “ Jersey and The Lehigh Coal and Navigation
 “ Company should differ as to the possibility of
 “ maintaining the production of the said lands at
 “ the stipulated amount, the question of possibility
 “ shall be referred to arbitrators, one to be
 “ appointed by The Lehigh Coal and Navigation
 “ Company and one by The Central Railroad Com-
 “ pany of New Jersey, and the two thus chosen
 “ shall select a third, and their decision, or that of
 “ a majority of them, shall be final and con-
 “ clusive and binding on the parties hereto.

“ If in any year prior to the time at which
 “ The Central Railroad Company of New Jersey
 “ shall be entitled to claim that the anthracite
 “ lands aforesaid can no longer produce anthra-
 “ cite in the stipulated ratio, the production of the
 “ said lands shall fall below the stipulated amount,

“ The Central Railroad Company of New Jersey
 “ shall and will use all means that shall be rea-
 “ sonably possible to make up the deficiency in
 “ the production of that year by a corresponding
 “ excess of production in the next year over the
 “ stipulated production for the said next year; and
 “ if the said deficiency of production of the preced-
 “ ing year shall not be so compensated, then The
 “ Central Railroad Company of New Jersey shall
 “ and will pay to The Lehigh Coal and Navigation
 “ Company the sum of money which The Lehigh
 “ Coal and Navigation Company would have re-
 “ ceived from the business of the said preceding
 “ year if the guaranteed production of the anthra-
 “ cite lands aforesaid had been made ; excepting
 “ only that if in any such year in which The
 “ Central Railroad Company of New Jersey shall
 “ be bound as aforesaid to make up the deficiency
 “ of production of the preceding year, the failure
 “ to produce sufficient anthracite to make up such
 “ deficiency from the anthracite lands aforesaid
 “ shall have been caused by the occurrence in
 “ such year or in the preceding year of a gen-
 “ eral strike of workmen, or an extensive fire
 “ in the collieries, or an extensive flooding of
 “ the collieries, and not by the inability of the
 “ collieries to produce the required amount of
 “ coal under ordinary circumstances, The Central
 “ Railroad Company of New Jersey shall for those
 “ years be relieved of its obligation to pay to The
 “ Lehigh Coal and Navigation Company the sum
 “ of money which The Lehigh Coal and Navigation
 “ Company would have received from the business
 “ of the said years if the guaranteed production
 “ of anthracite had been made; and The Central
 “ Railroad Company of New Jersey shall and
 “ will cause the production of the anthracite
 “ lands aforesaid to pass over the lines of the
 “ Lehigh and Susquehanna Railroad and branches
 “ to markets that can be reached by way of

“ the said railroad lines, and as far as it can
 “ be carried toward such markets over said
 “ lines, from which lines it shall not be diverted
 “ except for an equivalent that shall be satisfac-
 “ tory to The Lehigh Coal and Navigation Com-
 “ pany, and that shall have been accepted by them
 “ in writing before such diversion shall be made,
 “ The Lehigh Coal and Navigation Company
 “ agreeing on its part to consent to such diver-
 “ sion when it shall clearly appear that the in-
 “ terests of the Lehigh and Susquehanna Railroad
 “ and branches will be thereby promoted,” and

WHEREAS, It is important for the interests of
 both the parties hereto (as tending to secure enough
 business for the Lehigh and Susquehanna Railroad
 and branches to enable The Central Railroad Com-
 pany of New Jersey to earn sufficient revenues on
 the Lehigh and Susquehanna Railroad and branches
 to pay the stipulated rental), that so much as pos-
 sible of the coal product of The Lehigh Coal and
 Navigation Company's lands shall be sent to mar-
 ket over the lines of the Lehigh and Susquehanna
 Railroad and branches and the Central Railroad
 of New Jersey, it is agreed between the parties
 hereto that the proviso in the first of the cove-
 nants of the party of the first part in the agree-
 ment of March 31, 1871, shall be changed so as
 to read as follows:

“ **Provided**, that one-fourth and no more of the
 “ coal to be mined annually by The Lehigh Coal
 “ and Navigation Company from lands owned,
 “ leased, or controlled by it may be sent to
 “ market over railroad lines other than the Le-
 “ high and Susquehanna Railroad and branches
 “ in case that by so doing The Lehigh Coal and
 “ Navigation Company can realize a larger
 “ price or profit than it would have realized from
 “ the price at the mines together with its pro-

“portion of the freight earnings on such coal
 “on the Lehigh and Susquehanna Railroad and
 “branches if it had been shipped over that rail-
 “road; but The Central Railroad Company of
 “New Jersey shall have the option in such cases
 “of buying such coal of The Lehigh Coal and
 “Navigation Company at its mines, paying
 “therefor a price which added to the proportion
 “of the freight earnings on such coal accruing
 “to The Lehigh Coal and Navigation Company
 “shall not be less than that which The Lehigh
 “Coal and Navigation Company would have
 “realized if its coal had been shipped over other
 “lines of railroad. But nothing in this proviso
 “shall be held to limit the shipment of coal by
 “The Lehigh Coal and Navigation Company
 “over the Lehigh and Hudson River Railway to
 “points in the interior of New England, except
 “that the amount of coal shipped by The Lehigh
 “Coal and Navigation Company over the Lehigh
 “and Hudson River Railway, added to the
 “amount that may be sent to market by rail-
 “road lines other than the Lehigh and Susque-
 “hanna Railroad and branches, shall not in any
 “year exceed twenty five per cent. of the total
 “production of its mines,” and

WHEREAS, It is important for the interests
 of both the parties hereto as tending to the devel-
 opment of the business of the Lehigh and Sus-
 quehanna Railroad and branches that an indepen-
 dent connection with the City of Scranton and
 with the railroads centering there should be
 secured for the said railroad, it is agreed between
 the parties hereto that The Lehigh Coal and Navi-
 gation Company shall assign to The Central Rail-
 road Company of New Jersey the contract with the
 Delaware and Hudson Canal Company of January
 27, 1887, a copy of which is hereto annexed marked
 “Exhibit C,” under which it has the right to the un-

restricted use of the Delaware and Hudson Canal Company's Railroad between Union Junction and Minooka Junction, and shall procure a lease to The Central Railroad Company of New Jersey of the railroad which the Wilkesbarre and Scranton Railway Company is building from Minooka Junction to Scranton; and that The Central Railroad Company of New Jersey shall assume all the duties to the Delaware and Hudson Canal Company which under the said agreement of January 27, 1887, were assumed by The Lehigh Coal and Navigation Company, and shall lease the railroad of the Wilkesbarre and Scranton Railway Company upon terms which shall be generally similar to those of the existing lease of the Lehigh and Susquehanna Railroad and branches, except that the annual rental shall be fixed at the rate of six per cent. on the cost of the Wilkesbarre and Scranton Railway as the same shall from time to time appear on the books of the said Railway Company, The Central Railroad Company of New Jersey assuming and paying all taxes that may by any lawful authority be assessed on the property of the Wilkesbarre and Scranton Railway Company, and on the rent or revenue derived by The Lehigh Coal and Navigation Company from said lease, so that The Lehigh Coal and Navigation Company shall receive the rent of six per cent. on the cost of the Wilkesbarre and Scranton Railway free of all charges whatever; the lease of the Wilkesbarre and Scranton Railway and the assignment of the contract with the Delaware and Hudson Canal Company being terminable by the party of the first part whenever the lease of the Lehigh and Susquehanna Railroad and branches shall terminate; and that The Central Railroad Company of New Jersey shall operate in connection with the Lehigh and Susquehanna Railroad the aforesaid roads connecting the Lehigh and Susquehanna Railroad with the City of

Scranton and with the railroads centering there;
and

WHEREAS, It has been the purpose of the agreements heretofore made between the parties hereto, as is plainly declared in the deed of March 31, 1871 and elsewhere, that for the public convenience and accommodation and for the interest of the parties hereto, the railroads of the parties hereto, forming a continuous line of railroad from the Wyoming and Lehigh coal fields of Pennsylvania to the waters of the Hudson River at Jersey City, should be worked as one line and under one direction, it is agreed between the parties hereto that if at any time it shall be necessary for the purpose of maintaining the continuity of the said line of railroad and the unity of its management that the Lehigh and Susquehanna Railroad and branches should be operated by The Lehigh Coal and Navigation Company, then The Central Railroad Company of New Jersey shall and will request The Lehigh Coal and Navigation Company to operate the Lehigh and Susquehanna Railroad and branches, and The Lehigh Coal and Navigation Company shall accede to the request and shall operate the Lehigh and Susquehanna Railroad and branches for the account of The Central Railroad Company of New Jersey and at its charge and risk so long as it may remain necessary so to do in order to carry out the purpose of the existing agreements. In that event The Central Railroad Company of New Jersey shall furnish the equipment required, and shall in all other respects carry out the provisions of this agreement and of the deeds of March 31, 1871, and of May 29, 1883, the only change contemplated in the duties of The Central Railroad Company of New Jersey being that in the operation of the Lehigh and Susquehanna Railroad and branches it shall

act through The Lehigh Coal and Navigation Company instead of through its own officers. And it is further agreed that when in the opinion of The Central Railroad Company of New Jersey there shall be no longer any necessity for the purposes hereinbefore set forth that The Lehigh Coal and Navigation Company shall continue to operate the Lehigh and Susquehanna Railroad and branches, then The Lehigh Coal and Navigation Company shall surrender to The Central Railroad Company of New Jersey possession of the Lehigh and Susquehanna Railroad and branches and of the equipment belonging to The Central Railroad Company of New Jersey, and The Central Railroad Company of New Jersey shall assume and shall continue the operation of the Lehigh and Susquehanna Railroad and branches under the deeds of March 31, 1871, and of May 29, 1883, and this agreement.

The parties hereto respectively agree that The Central Railroad Company of New Jersey shall and will on or before the first day of January, 1888 deposit with the Fidelity Insurance Trust and Safe Deposit Company of Philadelphia two millions three hundred and ten thousand dollars of the five per cent. bonds to be secured by the proposed general mortgage of The Central Railroad Company of New Jersey, and that these bonds shall be pledged for the payment at maturity of two millions three hundred and ten thousand dollars of the gold loan of The Lehigh Coal and Navigation Company falling due December 15, 1897, the payment of the principal and interest on which amount was assumed by The Central Railroad Company of New Jersey in the second of the covenants of the party of the second part in the agreement of March 31, 1871, these bonds being an additional security to that of the equipment which by the agreement just recited is charged

with the payment of the above recited sum; and this being done, that The Lehigh Coal and Navigation Company shall and will on or before the first day of March, 1888, pay to The Central Railroad Company of New Jersey, in cash, such sum as may then stand to the credit of The Central Railroad Company of New Jersey on the books of The Lehigh Coal and Navigation Company for expenditures made on the Lehigh and Susquehanna Railroad and branches under the provisions of the first of the mutual covenants of the agreement of March 31, 1871, and The Lehigh Coal and Navigation Company shall and will thereafter pay The Central Railroad Company of New Jersey in cash for all expenditures that may be made under the provisions of the first of the mutual covenants of the agreement of March 31, 1871, as aforesaid, within twelve months from the end of the year in which such expenditures shall have been made; provided, that The Central Railroad Company of New Jersey shall not, at the time when such payments may become due, be in default under the provisions of the agreement of March 31, 1871, or of the agreement of May 29, 1883, or of this agreement.

The parties hereto agree that in case of any breach of covenant or contract by The Central Railroad Company of New Jersey if the same shall not be fully compensated within a reasonable time the party of the first part may at its option declare the deed of March 31, 1871, and the deed of May 29, 1883, and this agreement to be determined, and may exercise all the remedies for enforcing its rights and for the possession of the demised property as the same are conferred by the deed of May 29, 1883.

The parties hereto agree that if any one claiming under The Central Railroad Company of New Jersey, by virtue of any mortgage or prior grant or

agreement, shall at any time set up or pretend that he is entitled to any property or contract or to any benefit or interest in any property which is the subject of the deed of March 31, 1871, or of the deed of May 29, 1883, or of this agreement, but is not bound by the covenants in the deed of May 29, 1883, or by the terms of this agreement, nothing herein contained or which may be done under this agreement shall in any manner affect the right of The Lehigh Coal and Navigation Company to set up any matters in avoidance of that claim which it might do if this deed had never been executed nor the possession and control of the Lehigh and Susquehanna Railroad and branches enjoyed by The Central Railroad Company of New Jersey or acquiesced in by The Lehigh Coal and Navigation Company after January 1, 1887.

And the parties hereto agree that in case of any difference of opinion between them in relation to any of the provisions of this agreement which may be proper subjects of arbitration, the matters in dispute shall be referred to arbitrators, one to be appointed by The Lehigh Coal and Navigation Company and one by The Central Railroad Company of New Jersey, and the two thus chosen shall select a third, and their decision or that of the majority of them, shall be final and conclusive.

This agreement shall be binding upon the parties hereto during the continuance of the estate granted and the contract made by the deeds of March 31, 1871, and of May 29, 1883, and shall together with the said deeds constitute one contract between The Lehigh Coal and Navigation Company and The Central Railroad Company of New Jersey, but all the rights and duties created by this agreement or under its provisions shall absolutely cease and determine whenever those deeds shall cease and determine for any considera-

tion, whether by limitation or on account of the act or omission of The Central Railroad Company of New Jersey.

IN WITNESS WHEREOF, the parties hereto have caused their corporate seals, duly attested, to be hereunto affixed, the day and year first above written.

BY ORDER OF THE BOARD OF
MANAGERS OF THE LEHIGH
COAL & NAVIGATION CO.

J. S. HARRIS,
President.

Seal
L. C. & N. Co.

Attest:

S. SHEPHERD,
Secretary.

THE CENTRAL R. R. CO. OF
NEW JERSEY.

J. R. MAXWELL,
Pt.

Seal
C. R. R. Co. of
N. J.

Attest:

SAML. KNOX,
Sec'y.

STATE OF PENNSYLVANIA, }
 City of Philadelphia, } ss.:

Be it remembered, that on this thirteenth day of July, A. D. one thousand eight hundred and eighty-seven, before me, the subscriber, a notary public in and for said city, personally came and appeared S. Shepherd, Esquire, Secretary of the foregoing named corporation, The Lehigh Coal and Navigation Company, who, being duly sworn according to law, deposes and says, that he was personally present at the execution of the foregoing indenture, and saw Joseph S. Harris, Esquire, President of the said corporation, affix the seal of the said company to the said indenture, and deliver the same as the act and deed of the said company; and that the name of this deponent subscribed to the said indenture, as secretary of the said corporation, in attestation of the due execution and delivery of said indenture, is of this deponent's own proper handwriting.

S. SHEPHERD.

Sworn to and subscribed before me, this the day and year first aforesaid, at Philadelphia.

Witness my hand and seal.

WM. C. ALDERSON,
 Notary Public.

.....
 Notarial
 Seal.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

Be it remembered, that on this eleventh day of July, A. D. one thousand eight hundred and eighty-seven, before me, the subscriber, a commissioner for the State of Pennsylvania, resident in the State of New York, duly authorized to take the acknowledgment and proof of deeds, personally came and appeared Samuel Knox, Esquire, Secretary of the foregoing named corporation, The Central Railroad Company of New Jersey, who, being duly sworn according to law, deposes and says, that he was personally present at the execution of the foregoing indenture, and saw J. Rogers Maxwell, Esquire, President of the said corporation, affix the seal of the said company to the said indenture, and deliver the same as the act and deed of the said company; and that the name of this deponent subscribed to the said indenture, as Secretary of the said corporation, in attestation of the due execution and delivery of said indenture, is of this deponent's own proper handwriting.

SAML. KNOX.

Sworn to and subscribed before }
 me, this the day and year {
 aforesaid, at New York. }
 Witness my hand and seal. }

CHARLES EDGAR MILLS,
 A Commissioner for Pennsyl-
 vania, in New York,
 No. 115 Broadway,
 N. Y. City.

.....
 Commissioner's
 Seal.

“Exhibit A.”

ARTICLES OF AGREEMENT, Made this thirty-first day of March, A. D. 1871, between THE LEHIGH COAL AND NAVIGATION COMPANY, a corporation created by and existing under the laws of Pennsylvania, parties of the first part; and THE CENTRAL RAILROAD COMPANY OF NEW JERSEY, a corporation created by and existing under the laws of the State of New Jersey, parties of the second part.

WHEREAS, The parties of the first part are the owners of a railroad extending from a point at or near Wilkesbarre in the State of Pennsylvania to a point at or near Phillipsburg in the State of New Jersey, having various branches within the said State, which are hereinafter mentioned, and the parties of the second part are the owners of a railroad beginning at the terminus of the said railroad of the parties of the first part at Phillipsburg aforesaid and extending in the State of New Jersey to a point on the Hudson river, at Jersey City, and the said roads so connected form a continuous line of railroad from the Wyoming and Lehigh coal fields of Pennsylvania, to the Hudson river aforesaid, and it is deemed desirable for the public convenience and accommodation, and for the interest of the parties hereto, that the said railroads should be worked as one line and under one direction.

AND WHEREAS, The parties of the first part are willing to contract for the working of their said railroad and the branches thereof hereinafter mentioned by the parties of the second part at the cost and risk of the parties of the second part and on fair and equitable terms, and the parties of the

second part are willing on such terms to undertake the same.

NOW THEREFORE, THIS AGREEMENT WITNESSETH, THAT THE PARTIES OF THE FIRST PART, IN CONSIDERATION OF THE PREMISES AND OF THE FAITHFUL PERFORMANCE OF THE COVENANTS AND AGREEMENTS OF THE PARTIES OF THE SECOND PART HEREINAFTER MENTIONED AND CONTAINED, AND BY THE PARTIES OF THE SECOND PART TO BE KEPT AND PERFORMED, HAVE GRANTED, LEASED, AND DEMISED, AND BY THESE PRESENTS DO GRANT, LEASE, AND DEMISE UNTO THE PARTIES OF THE SECOND PART ALL THE RAILROADS OF THE PARTIES OF THE FIRST PART WITHIN THE STATE OF PENNSYLVANIA, INCLUDING THEIR BRIDGE ACROSS THE DELAWARE RIVER AT EASTON, AS FOLLOWS, TO WIT:

The Lehigh and Susquehanna Railroad, extending from Phillipsburg in the State of New Jersey to Union Junction in Luzerne county, Pennsylvania, where it connects with the railroad built by the Union Coal Company, a distance of one hundred and five miles more or less. Also, the railroad known as the Nanticoke Railroad, situated in said Luzerne county, extending from the Lehigh and Susquehanna Railroad at Ashley to the Newport mines, a distance of eight and one-half miles more or less, with a branch from the same extending to the Lee mines, a distance of two miles more or less; extending also from Ashley to Gardner's Switch, a distance of four and one-half miles more or less; also extending from Union Junction to the Everhart mines, a distance of three miles more or less; and also extending from Mill Creek to the Enterprise mines, a distance of four miles more or less. Also, the Branch Railroad in the county of Luzerne known as the Nescopeck Branch, extending from White Haven to Upper Lehigh, a

distance of nine miles more or less. Also, the Nesquehoning Valley Railroad, situated in the counties of Carbon and Schuylkill, extending from Nesquehoning Junction to Tamanend, where it connects with the Catawissa Railroad, a distance of sixteen and one-half miles more or less. Also, the Tresckow Railroad in the counties of Schuylkill, Carbon, and Luzerne, extending from the Catawissa Railroad at Silver Brook to the Honey Brook mines, a distance of six and one-half miles more or less. Also, the Branch Railroad in the counties of Northampton and Lehigh known as the Coplay Branch, extending from Laubach station to the furnaces of the Thomas Iron Company, a distance of one mile more or less. Also, the Branch Railroad in the county of Lehigh extending from the railroad near Bethlehem across the Lehigh river to a connection with the North Pennsylvania Railroad at South Bethlehem, a distance of fourteen hundred and twenty-eight feet more or less. Also, the inclined planes in Luzerne county with all the machinery connected therewith, extending from Ashley to Solomon's Gap station, a distance of three miles more or less; together with all sidings, station-houses, machine shops, and other appurtenances of said roads and branches; and also all and singular the roadways, and also the franchises of the parties of the first part for maintaining and working the same and taking tolls thereon and for demanding and receiving compensation for the use of the same. *Excepting and reserving* out of this demise the Nesquehoning Tunnel and the railroads or railways laid therein and extending beyond the same; and also all railroads and railways extending from breakers into mines.

TO HAVE AND TO HOLD the said demised railroad and premises unto the parties of the second part, their successors and assigns, from the *first day of April* next ensuing the date hereof for and during

the continuance of the charters of the said companies and of any renewals of the same; under and subject nevertheless to all the mortgages existing on the said demised premises: PROVIDED, HOWEVER, That the term of the lease of the Nesquehoning Railroad above mentioned shall not extend beyond the term of nine hundred and ninety-nine years from the 4th of November, 1868, less one day.

AND THE PARTIES OF THE SECOND PART, IN CONSIDERATION OF THE PREMISES AND OF THE FAITHFUL PERFORMANCE OF THE COVENANTS AND AGREEMENTS OF THE PARTIES OF THE FIRST PART HEREINAFTER MENTIONED AND CONTAINED TO BE KEPT AND PERFORMED BY THE PARTIES OF THE FIRST PART, HAVE COVENANTED AND AGREED, AND BY THESE PRESENTS DO COVENANT AND AGREE, TO AND WITH THE PARTIES OF THE FIRST PART AS FOLLOWS, TO WIT :

FIRST.—That they the parties of the second part shall and will take and well and efficiently operate at their own cost and risk the said demised premises, and all such extensions and additions as may be hereafter made of and to the same under the provisions of this agreement; and shall and will pay to the parties of the first part for the use of the same, at the times hereinafter mentioned, one-third of the gross receipts from the traffic or business of the said demised premises and extensions and additions thereto, without any other deductions therefrom than are hereinafter mentioned.

SECOND.—The parties of the second part shall and will, on the first day of April next, purchase all the railroad equipment of the parties of the first part mentioned and described in the inventory hereunto annexed, at the prices mentioned or fixed in said inventory, amounting in the aggre-

gate to the sum of two millions three hundred and ten thousand dollars, and in payment of said purchase-money the parties of the second part shall and will assume and pay or discharge at or before the maturity thereof, two millions three hundred and ten thousand dollars of the six per cent. bonds of the five millions dollars gold loan of the parties of the first part falling due December 15th, 1897, secured by the mortgage of the demised premises and of said equipment bearing date the 27th of November, 1867, subject to which mortgage this sale is made, the payment or discharges of the said bonds by the parties of the second part to be made by surrender of the same, from time to time, to the trustees of the said last-mentioned mortgage for cancellation, as the said bonds may be purchased or paid by the said parties of the second part, and an equal amount in value of said equipments to be released by the said Trustees simultaneously with such surrender, till the whole is released on the surrender of the whole amount of bonds assumed as aforesaid. And the parties of the second part shall and will assume the payment of the interest on said amount of the said bonds from and after the first day of April next, and shall and will pay or provide for the payment of the interest or coupons of said bonds or of such amount thereof as may be from time to time outstanding, as well as the taxes thereon, according to the true intent and meaning of the said bonds. And they also agree to maintain and perpetuate the said equipment and to replace such parts as may be destroyed by accident or use, so far as the same may be required to keep the said equipment not released as aforesaid subject to the said mortgage equal in value to the amount of bonds assumed as aforesaid still outstanding: and the said equipment unpaid for shall be subject to annual inspection by the parties of the first part.

THIRD.—The parties of the second part shall and will, on the first day of April next, take and pay for at a fair valuation to be agreed on by the respective superintendents of the parties hereto, all the shop tools and machinery, all tools used in the maintenance of the road, all rails, ties, spikes, and chairs on hand for repairs, and all materials and supplies on hand in the shops or elsewhere, belonging to the parties of the first part.

FOURTH.—The parties of the second part shall and will, at their own cost and charges, maintain and perpetuate the railroad and premises demised, and shall and will keep and maintain the same in good order and repair and fit for efficient use, and will so return and re-deliver up the same at the termination of this lease: PROVIDED, That in case of damage to the said demised premises by freshet to the extent of five thousand dollars or more at any one time, the repairs shall be made promptly by the parties of the second part, but at the cost and expense of the parties of the first part.

FIFTH.—The parties of the second part shall and will furnish, from time to time, at their own cost, the necessary machinery, rolling stock and equipment of all kinds required for all the business of the demised premises, and carry on the said business at fair prices and with due reference to the interests of both companies. It being the true intent and meaning of this agreement, that the demised premises shall be so worked and maintained by the parties of the second part as to secure the largest amount of revenue possible therefrom; but they shall not be bound to perform or do any act or thing which may divert from the railroad or the Lehigh Valley Railroad Company business which naturally belongs to the said railroad.

SIXTH.—It being understood that the parties hereto of the first part and the Lehigh Valley Railroad Company are competitors in the general railroad business of the Wyoming and Lehigh valleys—the parties of the second part do further covenant and agree, that the Lehigh Valley Railroad Company shall not, by any act of the parties of the second part, have or obtain any interest in this agreement which shall be at any time asserted or exercised to the detriment of the parties of the first part, or of the revenues derived from the business of the demised premises, or the future increase thereof; but in case of any contract between the parties of the second part and the Lehigh Valley Railroad Company for merger, lease, or other combination of their interests, the annual revenue or gross receipts of the parties of the first part shall never be less than the one-ninth of the aggregate gross receipts derived from the Lehigh Valley Railroad and its branches and the premises hereby demised.

SEVENTH.—The parties of the second part shall and will furnish, from time to time, on reasonable notice, all the cars that may be required by the parties of the first part, or their assigns, to transport the coal that may be mined by them, or their lessees for the time being, on lands of the said parties of the first part, including their collieries shipping through the Nesquehoning Tunnel, and to transport the same as consigned without unnecessary delay. All coal consigned by the parties of the first part, or their assigns, to points not reached by the roads controlled by the parties of the second part, or by the canals of the parties of the first part, shall be delivered by the parties of the second part to such other roads as will enable it to reach its ultimate destination.

EIGHTH.—The parties of the second part shall and will furnish, on reasonable notice, all cars that may be required for the transportation of coal from any colliery on the line of the said demised roads, or any roads connecting therewith, destined for shipment at Coalport or Mauch Chunk or other shipping point by the canal of the parties of the first part. The rates on said coal from the collieries to the canal, over the road worked by the parties of the second part, shall not exceed the rates charged at the same time on the same portions of said road on coal from the same collieries when destined to same points by railroad: PROVIDED, The aggregate charges shall not be less than sixteen cents per ton, and that all expenses of shipping from the cars into boats, maintaining the tracks and sidings at the shipping points on said canal, and transferring the coal by shifting engines at said points, shall be borne by the parties of the first part.

NINTH.—The parties of the second part covenant and agree that on all business passing in whole or in part over said demised railroad and branches and in whole or in part over the railroad or railroads owned or controlled by the parties of the second part, the said parties of the second part shall and will credit to the said road and branches hereby demised their full *pro rata* proportion (according to the distance carried on said roads) of all gross receipts derived from such business, subject only to such terminal and other charges as are usual and general; and in prorating the distances to and from the Wyoming Valley, they shall be computed as if over the “back track,” even when the business is carried over the planes.

TENTH.—The parties of the second part further covenant and agree, that on coal delivered for transportation by the parties of the first part on

sidings at the northern end of the Nesquehoning Tunnel, the rates of transportation shall not exceed the rates charged at the same time from Penn Haven to the same points, on coal from the Lehigh region, either by the parties of the second part or by the Lehigh Valley Railroad Company.

ELEVENTH.—The parties of the second part further covenant and agree, that the provisions of the contract with the Wilkesbarre Coal and Iron Company, as far as they relate to transportation, shall extend to all coal mined in the Wyoming Valley by the parties of the first part, or from their lands by their lessees or assigns, and to coal from collieries in said valley whose product is controlled under existing contracts by the parties of the first part; and upon the termination of the said contract with the said Wilkesbarre Coal and Iron Company, as therein provided, the parties of the second part shall and will transport the said coal at rates not higher than those charged to other parties shipping coal from said region, such rates, if unsatisfactory, to be submitted to arbitration as hereinafter provided.

TWELFTH.—The parties of the second part shall and will assume and well and faithfully perform all the obligations of the parties of the first part under contracts set out in the schedule annexed to this agreement, as far as they relate to transportation upon the said demised premises, and so far as they are binding on the said parties of the first part, receiving in consideration therefor all the benefits of the said contracts.

THIRTEENTH.—The parties of the second part shall and will keep in proper books, to be provided by them, full and accurate and separate accounts of the business of the road and its branches hereby

demised, which shall be open to the inspection and examination of the parties of the first part at all times, upon reasonable request and notice.

FOURTEENTH.—The parties of the second part covenant and agree, that all persons traveling over the roads hereby demised in the prosecution of the business of the parties of the first part, shall be allowed to pass free of charge, subject to the rules and regulations of the parties of the second part applicable to other persons having the like privileges.

AND THE PARTIES OF THE FIRST PART DO HEREBY COVENANT AND AGREE TO AND WITH THE PARTIES OF THE SECOND PART AS FOLLOWS, TO WIT :

FIRST.—That all coal mined by the parties of the first part on lands now owned by them, or that may be hereafter acquired by them, shall be sent to market over the roads of the parties to this agreement, when destined to points or markets reached by the said roads ; and when destined for markets not so reached, it shall be sent as far as practicable over said roads, excepting always coal destined for shipment by canal, and excepting all coal covered by contracts now existing and mentioned in the twelfth of the foregoing covenants of the parties of the second part : PROVIDED, That one-fourth of the coal mined annually by the parties of the first part in the Wyoming region may be sent to markets not reached by lines running towards the Delaware River.

SECOND.—The parties of the first part covenant and agree, that in case the coal lands now owned and held by them, or that may be hereafter acquired by them, shall be sold, leased or transferred

by them to other parties, all such lands shall nevertheless be subject to the provisions of this agreement.

THIRD.—The parties of the first part covenant and agree, that the rates for the transportation of coal and other freights upon their canal, between points common to both railroad and canal, shall be arranged from time to time by the parties hereto ; and shall conform as nearly as possible to the rates at the time on the railroad between the same points, it being understood that the canal rates may be reasonably below the rates to the same points on the railroad, as heretofore accustomed, so that each shall be used to reach markets and points which can be best supplied by the respective works.

FOURTH.—The parties of the first part covenant and agree that their corporate rights and privileges shall, at all times, be used in the construction of additional roads and branches when required as herein stipulated, or to aid the parties of the second part in carrying out the provisions of this agreement.

FIFTH.—The parties of the first part covenant and agree that the parties of the second part shall have the option, at any time within three years from the first day of August next, to lease the canal and its appurtenances, excepting ground and water rents now existing, at a net annual rent of three hundred thousand dollars, assuming in connection therewith the lease of the Delaware Division Canal.

SIXTH.—The parties of the first part covenant and agree that in case of the non-payment of interest by them on any of the mortgages now existing on the demised premises, or if necessary to provide

the sums due at any time to any sinking fund stipulated for in any of the said mortgages, the parties of the second part shall have the right to pay directly to the trustees of any such mortgage so much of the rent due and payable to the parties of the first part under this agreement as may be necessary for the said purposes.

SEVENTH.—The parties of the first part covenant and agree, that they have full power and authority, under the laws of Pennsylvania, to make and execute this lease, transfer, and contract, so as to fully vest the said demised premises and property in the parties of the second part as herein provided; and that the parties of the second part shall have full right to take, occupy and use the said railroad, with its appurtenances, under the lease, transfer, and contract.

AND IT IS MUTUALLY COVENANTED AND AGREED BY THE PARTIES HERETO, AS FOLLOWS:

FIRST.—That all expenditures required for extending the road or its branches hereby demised, or for additional branches, second track, additional sidings, stations, shops or other buildings, for improving the alignment of the road at Stony Creek at a cost not exceeding two hundred thousand dollars, and for masonry walls as a protection against freshets, shall be at the expense of the parties of the first part; but no such expense shall be incurred without the consent in writing of the said parties of the first part, which consent shall not be withheld without reasonable cause. All such improvements shall be made by the parties of the second part, and the cost thereof advanced by them if required, they receiving on such advances a semi-annual percentage equiva-

lent to the dividends declared during the same period on the stock of the parties of the first part: PROVIDED, That such percentage shall not be less than seven per cent. per annum: AND PROVIDED ALSO, That the parties of the first part may at any time refund such advances.

SECOND.—That all railroads or railways with their branches, extensions, sidings and buildings connected therewith, hereafter constructed under the franchises of the parties of the first part and with the concurrence of both the parties hereto, shall, when and as the same are constructed, be deemed and taken to pass under this agreement, as part of the premises hereby demised, and all necessary deeds to carry this covenant into effect shall be executed by the parties hereto upon request of either.

THIRD.—That the parties of the first part shall and will, by and with the consent of the Board of Managers of the Railroad Car Trust of Philadelphia and of The Lehigh Equipment Trust of Philadelphia respectively, assign and transfer to the parties of the second part, and the parties of the second part shall and will take by such assignment, all the leases of cars and locomotives made by the said trusts respectively, to the parties of the first part, and all the cars and locomotives mentioned in the said leases respectively, and described or mentioned in the second inventory hereto annexed. And such assignment being made, the parties of the second part shall and will thereupon assume and pay all the obligations of the parties of the first part under the said trusts and leases respectively.

FOURTH.—That all dwelling-houses, except station-houses, are excepted from this lease. But the

parties of the second part may at their own cost erect additional houses on any part of the demised premises, and receive the rents of such houses to their own use.

FIFTH.—That all settlements between the parties and payments of rent by the parties of the second part for the said demised premises, shall be made monthly on the fifteenth day of the month, or as soon thereafter as possible.

SIXTH.—That in case of any difference of opinion between the parties hereto in relation to any of the provisions of this contract, or in case either party shall be dissatisfied with the manner in which the business is done by the other party, the matters in dispute shall be referred to arbitrators to be appointed in the usual manner, whose decision or a majority of them shall be final and conclusive.

SEVENTH.—That in case of any breach of covenant on the part of the parties of the second part, their successors or assigns, and notice thereof given by the parties of the first part, or their assigns, to the parties of the second part, if the same cannot or shall not be fully compensated within a reasonable time thereafter, then and in such case the parties of the first part, or their assigns, may, at their option, declare this lease to be terminated and the agreements herein contained to be rescinded, and may thereupon enter on the demised property and premises as and for condition broken, and repossess themselves as of their old and former estate, and may resume, take, use and enjoy all the rights, privileges and franchises hereby demised or granted, as if this agreement had never been made; and this contract shall from thenceforward be deemed and taken to be utterly ended, saving and excepting the right of the parties of the first

part or their assigns to sue for and recover, by any proceedings at law or in equity, compensation for all damages for, or by reason of, any breach or breaches of any covenant or covenants on the part of the parties of the second part, as fully as if this agreement continued in full force; and saving and excepting the rights of the parties of the second part to the previous repayment of all advances made by them for improvements; and also saving and excepting the personal property purchased and paid for by the parties of the second part; but no such option of declaring this lease terminated shall be exercised by the parties of the first part, or their assigns, while there exists any default under this agreement on their part.

IN WITNESS WHEREOF, The said parties have caused their corporate seals to be hereunto affixed, duly attested, the day and year first above written.

By order of the Board of Managers of the

LEHIGH COAL AND NAVIGATION COMPANY,

E. W. CLARK,

President.

[L. S.]

F. MITCHELL,

Secretary.

CENTRAL RAILROAD COMPANY OF NEW JERSEY,

Per JOHN TAYLOR JOHNSTON,

President.

[L. S.]

Attest:

SAM'L KNOX,

Secretary.

“Exhibit B.”

ARTICLES OF AGREEMENT, Made this twenty-ninth day of May, 1883, by and between THE LEHIGH COAL AND NAVIGATION COMPANY of the first part, THE CENTRAL RAILROAD COMPANY OF NEW JERSEY of the second part, and THE PHILADELPHIA AND READING RAILROAD COMPANY of the third part.

WHEREAS, The Lehigh Coal and Navigation Company and The Central Railroad Company of New Jersey entered into certain articles of agreement under date of March 31st, 1871, a copy of which is hereto annexed, marked “Exhibit A;”

AND WHEREAS, The parties hereto are willing to covenant and agree to and with one another as hereinafter set forth :

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, That the parties hereto have covenanted and agreed, and do hereby covenant and agree to and with each other as follows :—

FIRST.—This agreement is to be deemed and taken to have been incorporated into the contract of March 31st, 1871 (but only to be operative from and after June 1st, 1883), as if originally there written, and each party is to have the same remedies as are provided in the original contract for all rights secured by the contract as thus modified, and as if the said original contract had been herein recited and set forth at length as part hereof ; and wherever in this agreement the expression “Lehigh and Susquehanna Railroad and branches” is used, it shall be taken to include all the rail-

roads now or hereafter to be operated under the original contract of March 31st, 1871, and this supplemental agreement.

SECOND.—The Central Railroad Company of New Jersey agrees that inasmuch as The Philadelphia and Reading Railroad Company, after it takes possession of The Lehigh and Susquehanna Railroad and branches, will also become responsible for the proper conduct of the business under the provisions of the aforesaid agreement of March 31st, 1871, any breach of the covenants of the original contract or of this supplemental agreement by The Philadelphia and Reading Railroad Company shall have the same effect in all respects as if the breach had been committed by The Central Railroad Company of New Jersey.

THIRD.—The Philadelphia and Reading Railroad Company agrees that it will assume and become liable for the faithful execution of all the covenants in the said agreement contained, and on the part of the said The Central Railroad Company of New Jersey to be kept and performed, and will keep, maintain, and fulfill the same according to their full intent and meaning, and will carry out all other contracts made by or on behalf of The Central Railroad Company of New Jersey, in which The Lehigh Coal and Navigation Company may have an equitable interest ; will develop the business of The Lehigh and Susquehanna Railroad and branches in accordance with the provisions of the said agreement of March 31st, 1871, and the terms of this supplemental agreement ; and where additional railroads shall be necessary to develop and secure business in the anthracite coal fields east of the line of The Little Schuylkill and Catawissa Railroads, will cause them to be built under the provisions of the first and second mutual covenants

of the contract of 1871 ; will cause the development of The Lehigh and Wilkesbarre Coal Company's lands to proceed *pari passu* with that of the lands of The Philadelphia and Reading Coal and Iron Company, so that the production of the two coal estates shall bear to each other the numerical relation of twenty-eight for The Lehigh and Wilkesbarre Coal Company to seventy-two for The Philadelphia and Reading Coal and Iron Company, at least until the production of The Lehigh and Wilkesbarre Coal Company's lands shall reach three million tons per annum, beyond which it shall not be required to be increased, but which shall be maintained till it shall be no longer possible to make the said mines produce at that rate; and if the production of the said lands shall in any one year bear a less ratio to the production of The Philadelphia and Reading Coal and Iron Company's lands than the aforesaid ratio, will send such an amount of coal from The Philadelphia and Reading Coal and Iron Company's, or other anthracite coal lands lying west of Tamanend, over The Lehigh and Susquehanna Railroad from Tamanend, as shall bring the coal tonnage-mileage of the Lehigh and Susquehanna Railroad system up to what it would have been if the above stipulation in regard to the production of The Lehigh and Wilkesbarre Coal Company's lands had been carried out, and will cause the production of the Lehigh and Wilkesbarre Coal Company's lands to pass to or towards its market over the lines of The Lehigh and Susquehanna Railroad and branches. And it further agrees that the rates of transportation of coal, or other freight, from or to any property in the anthracite region which may at any time be owned, controlled, or operated by The Lehigh Coal and Navigation Company, shall never be higher than the lowest rates given to any other producer or shipper of anthracite coal for similar consignments

and like distances, and that it will join with the Central Railroad Company of New Jersey in carrying out the provisions of the contract between The Central Railroad Company of New Jersey and The Alliance Coal Mining Company, of August 10th, 1881, a copy of which, marked "Exhibit B," is hereto annexed.

FOURTH.—And the said The Philadelphia and Reading Railroad Company further covenants and agrees that the aggregate rental of the The Lehigh and Susquehanna Railroad, after the date of this agreement, shall never in any year be less than one million four hundred and fourteen thousand four hundred dollars, but if the one-third of the gross receipts from the operation of The Lehigh and Susquehanna Railroad (settlements for which shall be made monthly as heretofore), shall not amount in any year to the said sum, The Philadelphia and Reading Railroad Company will nevertheless pay at the end of the calendar year such additional sum as will make the rental of The Lehigh Coal and Navigation Company from the said Lehigh and Susquehanna Railroad and branches equal thereto; and in consideration of this undertaking, The Lehigh Coal and Navigation Company covenants and agrees that after it shall have received from its one-third of the gross receipts derived from the operation of the said Lehigh and Susquehanna Railroad and branches, during any calendar year prior to December 31st, 1887, the sum of one million seven hundred and twenty-eight thousand seven hundred dollars, or in any calendar year thereafter prior to December 31st, 1892, the sum of one million eight hundred and eighty-five thousand eight hundred dollars, or in any calendar year thereafter the sum of two million and forty-three thousand

dollars, together with a further sum in each year equal to seven per cent. upon the amounts which shall be charged after December 31st, 1882, upon the books of The Lehigh Coal and Navigation Company for payments for right of way, or for expenditures made or to be made by The Central Railroad Company of New Jersey or The Philadelphia and Reading Railroad Company, for construction as shown by the accounts rendered or to be rendered by either of the said corporations under the first and second of the mutual covenants in the original agreement of March 31st, 1871, it will waive, relinquish, and release, and does hereby waive, relinquish, and release the surplus or excess of its one-third share of the said gross receipts to the said The Philadelphia and Reading Railroad Company, but nothing herein contained shall be deemed or taken to release The Lehigh Coal and Navigation Company from paying seven per cent. on the amount already advanced by The Central Railroad Company of New Jersey, and on the amounts hereafter expended, and which are repayable by The Lehigh Coal and Navigation Company, as provided by the agreement of March 31st, 1871, until The Lehigh Coal and Navigation Company shall have refunded such advances. And The Central Railroad Company of New Jersey hereby agrees that the sums herein stipulated to be paid and which it agrees may be paid to The Lehigh Coal and Navigation Company shall be in lieu and satisfaction of the rent reserved in the agreement of May 29th, 1883, between The Central Railroad Company of New Jersey and The Philadelphia and Reading Railroad Company (a copy of which, marked "Exhibit C," is hereto annexed) as accruing under the provisions of the agreement of March 31st, 1871; and upon the payment by The Philadelphia and Reading Railroad Company to

The Lehigh Coal and Navigation Company, its successors and assigns, of the sums herein stipulated to be paid the said The Philadelphia and Reading Railroad Company shall be relieved from said portion of the rental reserved in the agreement of May 29th, 1883, aforesaid, and the excess or remainder, if any, of said gross receipts, after making the payments herein stipulated to The Lehigh Coal and Navigation Company, shall be retained by The Philadelphia and Reading Railroad Company for its own use and benefit.

FIFTH.—And the parties hereto further agree, that in case of any difference of opinion between the parties hereto in relation to any of the provisions of this agreement, or in case either party shall be dissatisfied with the manner in which the business is done by the other party, the matters in dispute shall be referred to arbitrators, one to be appointed by The Philadelphia and Reading Railroad Company and one by The Lehigh Coal and Navigation Company, and the two thus chosen to select a third, and their decision or that of a majority of them shall be final and conclusive.

SIXTH.—And all the parties hereto agree that in case of any breach of covenant on the part of the parties of the second or third part, if the same shall not be fully compensated within a reasonable time, the party of the first part may at its option declare the agreement of March 31st, 1871, to be terminated and the agreements therein contained and this agreement to be rescinded, and may thereupon enter on the demised premises as and for condition broken and repossess itself of its old and former estate, and may resume, take, use and enjoy all its original rights, privileges, and

franchises, as if this agreement and the said agreement of March 31st, 1871, had never been made.

IN WITNESS WHEREOF, The parties hereto have caused their corporate seals, duly attested, to be hereunto affixed, the day and year first above written.

Sealed and delivered in the presence of us.

As to the signature of Joseph S. Harris, President.

S. SHEPHERD.

J. S. HARRIS,
Presdt.

Attest:

S. SHEPHERD, { Seal
 L. C. & N. Co. }

Secretary.

SAML. KNOX.

H. S. LITTLE,
President.

Attest:

SAML. KNOX, { Seal
 C. R. R. Co. of N. J. }

Secy.

ALBERT FOSTER

FRANKLIN B. GOWEN,
Prest.

Attest:

ALBERT FOSTER, { Seal
 P & R. R. R. Co. }

Secty.

“ Exhibit C.”

THIS AGREEMENT, Made this twenty-seventh day of January, A. D. one thousand eight hundred and eighty-seven (1887), between the PRESIDENT, MANAGERS AND COMPANY OF THE DELAWARE AND HUDSON CANAL COMPANY, hereinafter referred to as the Delaware Company, and THE LEHIGH COAL AND NAVIGATION COMPANY, hereinafter referred to as the Lehigh Company.

WHEREAS, The Delaware Company did on the seventh day of November, 1886, take control of the Union Coal Company's railroad, hereinafter called the Union Railroad, which railroad had theretofore been operated jointly by the Lehigh Company and the Delaware Company, and has furnished the connection between Union Junction, the terminus of the Lehigh and Susquehanna Railroad of the Lehigh Company, and Scranton; and

WHEREAS, The Lehigh Company, itself or through the Wilkes-Barre and Scranton Railway Company, a corporation controlled by it, has purchased ground for terminal facilities at Scranton, and has located and proposes to build a line between Scranton and a point near Minooka Station, hereinafter called Minooka Junction, and proposes also to build or to procure the building of, and to use, when built, a cut-off line from Laurel Run Station on the Lehigh and Susquehanna Railroad of the Lehigh Company, to a connection with the Union Railroad near Pittston station, at a point hereinafter called Pittston Junction; and

WHEREAS, Both parties hereto agree that it is

desirable to make such use of the existing lines of railroad as to meet the requirements of the public in the matter of transportation, and for this purpose the Delaware Company is willing to grant permanent rights to the Lehigh Company for so much of the said Union Railroad as the Lehigh Company may desire to use as hereinafter provided; and

WHEREAS, The object of this agreement is to furnish the Lehigh Company with a line of railway connecting its present railway at Union Junction with the proposed railway from Minooka Junction to Scranton, and also with the proposed railway from Laurel Run Station to Pittston Junction, over which connecting line its traffic shall pass freely, and from which it cannot be excluded by reason of any adverse interest obtaining control of the management of the Delaware Company's line:

NOW THIS AGREEMENT WITNESSETH:

FIRST.—That the Delaware Company has granted, demised and let, and by these presents doth grant, demise and let, unto the Lehigh Company, for a period of nine hundred and ninety-nine years from the date of this agreement, subject to the reasonable regulation and control of the lessor as to the movement and government of trains, the right to pass with its trains and locomotives over the aforesaid line of the lessor between Union Junction and Minooka Junction, and *vice versa*, with the right to use in connection with such trains all present or future water stations, sidings, and other facilities necessary for the accommodation of such trains and the traffic to be transported by them, as freely as if the lessee was the owner of the railroad hereby demised, paying to the lessor,

as rent for the demised premises, forty-two and one-half per cent. of the gross earnings on all coal, passengers, express, parcel, and freight traffic that shall accrue to such portion of the Union Railroad as it, the lessee, shall use; the total gross earnings in each case being divided in proportion to the actual mileage used of the Union Railway and the Lehigh Company's railroad, provided that if the Lehigh Company shall take water from any of the Delaware Company's water stations, it shall share in the expense of maintaining such stations in proportion to the consumption of water by each of the parties hereto. But the right to haul such traffic over the Union Railroad by the Lehigh Company's locomotives shall not apply to business originating at points north of Scranton on the Delaware Company's lines, or on the connecting lines forming the extensions thereof and destined to points south of Pittston Junction or Wilkes-Barre on the Lehigh Company's lines, or on connecting lines forming the extensions thereof, or originating at points south of Pittston Junction or Wilkes-Barre on the Lehigh Company's lines, or on connecting lines forming extensions thereof, and destined to points north of Scranton, on the Delaware Company's lines, or on connecting lines forming extensions thereof; all of which business shall be hauled by the Delaware Company's locomotives as provided in section third.

SECOND.--The Lehigh Company shall have the right to make a connection between the Union Railroad tracks and the tracks of the line to be built from Laurel Run Station to Pittston Junction, and also a connection between the Union Railroad tracks and the tracks of the Spring Brook Railway near Moosic Station; and also a connection between the Union Railroad tracks and the tracks of the Lackawanna and Bloomsburg Railroad at such

point between Moosic and Minooka as may be agreed on with the Delaware, Lackawanna and Western Railroad Company, it being the true intent of this stipulation to enable the Lehigh Company to secure business from the roads just named; but this right of connecting is not intended to permit it to secure business from other points on the Delaware Company's lines by means of lateral or auxiliary tracks leading thereto from the said Lackawanna and Bloomsburg Railroad and the said Spring Brook Railway, nor to take over the Union Railroad business which having originated at points south of the parallel of latitude passing through Wilkes-Barre, shall reach Wilkes-Barre by other roads than the Lehigh and Susquehanna Railroad, and shall be destined to points on the Union Railroad east of Wilkes-Barre or to other points on the Delaware Company's lines.

THIRD.—It is agreed for the present that through freight traffic originating at or destined to points on the Delaware Company's lines north of Scranton or on connecting lines forming extensions of the Delaware Company's lines; and through freight traffic destined to or originating at points on the Lehigh Company's line south of Wilkes-Barre or on connecting lines forming extensions of the Lehigh Company's lines, shall be exchanged at Wilkes-Barre, and shall be hauled by the Delaware Company's locomotives over the Union Railroad, and that the Delaware Company, for all such freight hauled by its locomotives over the Union Railroad, shall be entitled in the division of the through rate to be credited with at least forty miles from Wilkes-Barre, though the distance so hauled may have been less; and similarly, that on all freight so exchanged and hauled by the Lehigh Company's locomotives south of Wilkes-Barre, the Lehigh Company shall be entitled to be credited

with at least forty miles ; but it is further agreed that after the cut-off line from Laurel Run Station to Pittston Junction shall have been completed, the said exchange shall be made at Pittston Junction. in which case each party hereto shall, as before, be entitled to at least forty miles in the division of the through freight rate. But nothing in this section shall be so construed as to require the Lehigh Company to receive less in the division of the freight rate on business of the Western co-operative lines than it now receives, except it should assent to such a change.

FOURTH.—Each party hereto will provide its own timetables for the running of such trains over its lines as it may desire in carrying out the provisions of this agreement, it being understood that the Delaware Company's trains are to have preference over the Lehigh Company's trains of the same class on the Union Railroad.

FIFTH.—It is agreed that the parties hereto will extend each to the other as good facilities and rates in every respect as it accords to the most favored of the lines with which it may become connected.

SIXTH.—Each of the parties hereto shall be permitted to examine such of the books and records or other documents or papers of the other party as may be necessary to verify or confirm settlements proposed or made in accordance with the terms of this agreement.

SEVENTH.—It is intended that the rights of trackage hereinbefore granted by the Delaware Company to the Lehigh Company shall continue during the term of this agreement; and that the successors and assigns of either of the parties hereto

shall have the rights and privileges and shall be charged with the duties herein assumed by the parties to this agreement, but the basis of compensation to the Delaware Company for the use of the railroad and other facilities specified in the first section, and the basis of the minimum distances to be charged by either party on through freights as specified in the third section, may be readjusted on the first day of January, 1892, and each five years thereafter: PROVIDED, That either of the parties hereto shall give ninety days' notice to the other before the expiration of each period of its desire for such readjustment. The basis on which such readjustments shall be made shall be the usual railroad practice existing at the time of such readjustments, and if the two parties shall not be able to agree on this question or on any other question arising under this agreement, the matters in dispute shall be referred to arbitrators, one to be appointed by the Delaware Company and one by the Lehigh Company, and the two thus chosen to select a third, and their decision or that of a majority of them shall be final and conclusive.

EIGHTH.—The Lehigh Company shall have the right to assign its interest in this contract to the Central Railroad Company of New Jersey for the term during which that company shall be the lessee of the Lehigh and Susquehanna Railroad of the Lehigh Company, and the Central Railroad of New Jersey shall thereupon be entitled to have and exercise all the rights and privileges herein granted by this agreement to the Lehigh Company; and the Lehigh Company, upon the termination of the said lease of the Lehigh and Susquehanna Railroad to the Central Railroad Company of New Jersey, shall have the right to resume its rights under this agreement as fully as if they had never

been assigned to any other company, but neither of the parties hereto shall have the right to otherwise assign any of its rights under this agreement without the consent in writing of the other party.

NINTH.—In case of accident to the trains passing over any part of the Union Railroad that may be used by the Lehigh Company, the Lehigh Company and the Delaware Company shall each be held liable for any damage done by such accidents occurring through the neglect or misconduct of its own employés, or through the failure or defect of its own equipment. The Delaware Company shall be liable for any damage done through the failure or defect of its roadway or the appurtenances thereto. When damage occurs to the property of the parties hereto through the joint negligence of their employés, neither party shall have recourse against the other, but where damage occurs to the public and one of the parties is compelled to pay the same, the other party contributing to such negligence shall contribute equally to such loss.

TENTH.—In case either of the parties hereto shall willfully violate the terms of this agreement, the other party may terminate the same upon giving six months' notice of its election to do so.

ELEVENTH.—It is agreed that if at any time hereafter the Lehigh Company shall construct or operate any other line beyond Scranton, except as herein provided, this agreement shall cease and determine.

IN WITNESS WHEREOF, The said parties hereto have caused their respective corporate seals, duly

attested, to be hereunto affixed the day and year first above written.

Sealed and delivered *The President, Managers*
 in the presence of *and Company of the*
 Delaware and Hud-
 son Canal Company,
 By
 [SEAL] (Signed) R. M. OLYPHANT,
 Attest: *President.*
 (Signed) J. C. HARTT,
 Treasurer.

By order of the Board of
 Managers of the Lehigh
 Coal and Navigation
 Company,
 [SEAL] (Signed) J. S. HARRIS,
 President.
 (Signed) S. SHEPHERD,
 Secretary.

STATE OF NEW YORK, }
 CITY AND COUNTY OF NEW YORK, } ss.:

On this fourth day of February, 1887, before me personally came James C. Hartt, with whom I am personally acquainted, who, being by me duly sworn, said, that he resided in the city of New York; that he was the treasurer of the President, Managers and Company of the Delaware and Hudson Canal Company; that he knew the corporate seal of the said company; that the seal affixed to the foregoing instrument was such corporate seal; that it was so affixed by order of the board of managers of the said company; and that he signed his name thereto by the like order as treasurer of the said company; and the said James C. Hartt further said that he was acquainted with R. M. Oly-

phant, and knew him to be the president of said company; that the signature of the said R. M. Olyphant, subscribed to the said instrument, was in the genuine handwriting of the said R. M. Olyphant, and was thereto subscribed by the like order of the said board of managers, and in the presence of him the said James C. Hartt.

(Signed) F. M. OLYPHANT,
(30)

[SEAL] *Notary Public, New York County.*

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.:

I, JAMES A. FLACK, Clerk of the City and County of New York, and also clerk of the Supreme Court for the said city and county, the same being a court of record, do hereby certify that F. M. Olyphant, whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument, and thereon written, was, at the time of taking such proof or acknowledgment, a notary public in and for the city and county of New York, dwelling in the said city, commissioned and sworn, and duly authorized to take the same. And further, that I am well acquainted with the handwriting of such notary, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said court and county, the fourth day of February, 1887.

(Signed) JAMES A. FLACK,
Clerk.

STATE OF PENNSYLVANIA, }
CITY OF PHILADELPHIA, } ss

BE IT REMEMBERED, That on this fifth day of February, A. D. one thousand eight hundred and eighty-seven (1887), before me the subscriber, a notary public in and for said city, personally came and appeared S. Shepherd, secretary of the foregoing named corporation, The Lehigh Coal and Navigation Company, who, being duly sworn according to law, deposes and says that he was personally present at the execution of the foregoing indenture, and saw J. S. Harris, president of the said corporation, affix the seal of the said company to the said indenture, and deliver the same as the act and deed of the said company; and that the name of this deponent, subscribed to the said indenture as a witness thereto, and as secretary of the said corporation, in attestation of the due execution and delivery of said indenture, is of this deponent's own proper handwriting.

Sworn to and subscribed }
before me, this the day }
and year first afore- } (Signed) S. SHEPHERD.
said. Witness my }
hand and seal. }

(Signed) WM. C. ALDERSON,
[SEAL] *Notary Public.*

STATE OF PENNSYLVANIA, }
COUNTY OF LUZERNE, } ss.:

Recorded in the office for recording deeds, &c., in and for said county, in Deed-book No. 262, page 480. Witness my hand and official seal, at Wilkes-barre, this fifteenth day of February, 1887.

(Signed) JOSEPH J. MCGINTY,
[SEAL] *Recorder.*
Per TERRY, Dept.

LACKAWANNA COUNTY, ss.:

Recorded in the office for recording of deeds, &c., in and for said county, in Deed-book No. 43, page 339, &c. Witness my hand and seal of office this twenty-fourth day of March, A. D. 1887.

(Signed) ELIEZER D. JENKINS,
Recorder.

[SEAL]

[N 8691]

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